

**\*E-FILED 01-11-2011\***

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ALFRED R. MONTANO, MARY R.  
MONTANO,

No. C10-01536 HRL

Plaintiffs,

**ORDER TO SHOW CAUSE WHY THIS  
CASE SHOULD NOT BE DISMISSED**

v.

AMERICAN HOME MORTGAGE CORP. dba  
AMERICAN BROKERS CONDUIT, et al.,

Defendants.

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This matter has been continued several times because the court is informed that the parties have been discussing a possible loan modification, which might resolve this matter. At the November 16, 2011 case management conference, plaintiffs stated that they would dismiss the case in order to allow the loan modification negotiations to proceed more quickly. The only sticking point was whether defendants<sup>1</sup> would agree to waive any fees and costs incurred. The matter was then continued to January 11, 2011 for a further case management conference, to allow defense counsel time to confer with his clients. Assuming the case was not dismissed, the parties were directed to file an updated status report by January 4, 2011.

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<sup>1</sup> The record indicates that none of the defendants have been formally served with the summons and complaint. (See Docket No. 1, Notice of Removal at 3). However, plaintiffs and all defendants who have appeared before the court have consented that all proceedings in this matter may be heard and finally adjudicated by the undersigned. 28 U.S.C. § 636(c); FED. R. CIV. P. 73.

1 No dismissal was filed. No updated status report was filed either. This court held a  
2 further case management conference on January 11, 2011. Defendants advised that they agree  
3 to a dismissal, with the parties to bear their own fees and costs. They further stated that they  
4 informed plaintiffs of that agreement weeks ago. As noted above, however, no dismissal has  
5 been filed. Additionally, plaintiffs failed to appear for the January 11, 2011 conference.

6 Accordingly, plaintiffs' counsel William Look, Jr. shall appear before this court on  
7 **January 18, 2011, 10:00 a.m.** and show cause why this case should not be dismissed (or some  
8 lesser sanction imposed) for failure to prosecute or to obey court orders. Defendants need not  
9 appear at the show cause hearing. However, if they choose to attend, they may appear by  
10 telephone and shall make appropriate arrangements to have CourtCall (866-582-6878) initiate  
11 the call to the court just prior to the time set for the hearing.

12 SO ORDERED.

13 Dated: January 11, 2011

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16 HOWARD R. LLOYD  
17 UNITED STATES MAGISTRATE JUDGE  
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**United States District Court**  
For the Northern District of California

1 5:10-cv-01536-HRL Notice has been electronically mailed to:

2 Robert Betuel Norum bnorum@wrightlegal.net

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5 Counsel are responsible for distributing copies of this document to co-counsel who have not  
6 registered for e-filing under the court's CM/ECF program.